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In re Application of CLARK et al.
Application No.: 10/537,933
PCT No.: PCT/GB03/05345
Int. Filing Date: 08 December 2003
Priority Date: 09 December 2002
Attorney Docket No.: 04607/0203002-USO
For: DATA COMMUNICATION SYSTEM AND
METHOD

: DECISION ON
: REQUEST FOR
: CORRECTED
: FILING RECEIPT

This is a decision on applicant's "Request for Corrected Official Filing Receipt" filed in the United States Patent and Trademark Office (USPTO) on 14 August 2006. The request is **GRANTED** for the following reasons.

On 08 December 2003, applicant filed international application No. PCT/GB03/05345, which claimed a priority date of 09 December 2002 and which designated the United States.

On 07 June 2005, within the thirty month period, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 30 November 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration executed by the inventors and the \$130 surcharge for filing the oath or declaration after the thirty month period was required.

On 28 June 2006, applicants filed an executed declaration along with a request for the five month extension of time and the surcharge completing the filing requirements for international application entering National Stage in the U.S. under 35 U.S.C. 371. Applicant's request for a five month extension of time is granted.

On 03 August 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) which incorrectly indicated a date under 35 U.S.C. 371 of 29 June 2006. The USPTO mailed an official filing receipt which indicated a "filing date" of 29 June 2006.

On 14 August 2006, applicants filed a request to correct the filing receipt including a marked-up copy of the official filing receipt indicating a correction of the filing date.

DISCUSSION

On 14 August 2006, applicant filed the request to correct the filing receipt including a copy of the official filing receipt indicating the correction of the filing date from "06/29/2006" to "06/28/2006".

Applicant requests that the declaration be accorded a filing date of 28 June 2006. A review of the Express Mail label #EV835932145US, which accompanied the petition, reveals that it was addressed to the "Mail Stop Missing Parts, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450". The entry in the "Date In" box on the Express Mail Customer Copy indicates "6/28/06". A review of the Customer Copy of Express Mail label #EV835932145US indicates that it was date stamped by USPS "JUN 28 2006" and thus, was accepted on 28 June 2006.

This is sufficient evidence to establish with reasonable certainty that the declaration was deposited with the United States Postal Service as an "Express Mail" Mailing on 28 June 2006. Specifically, the Express Mail label #EV835932145US is the same number that appears on the Transmittal Letter. The indication of the "Express Mail" label number appearing on the Transmittal Letter ties the "Express Mail" label and the Transmittal Letter together such that it is clear that the declaration was deposited on 28 June 2006.

The date in the filing date portion on the filing receipt of a national stage application is the date upon which applicants complete the requirements under 35 U.S.C. 371(c). (See A. FILING DATE AS APPLICANT'S DATE OF INVENTION, MPEP §1895.01, page 1800-153).

A review of the application file indicates that the executed declaration and surcharge for filing the declaration after the thirty month period were filed on 28 June 2006 completing the requirements under 35 U.S.C. 371(c). The United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) which indicated an incorrect date under 35 U.S.C. 371 of 29 June 2006, which is hereby VACATED.

CONCLUSION

Applicants' request for the issuance of a corrected filing receipt indicating a "Filing or 371(c) Date" of 28 June 2006, filed on 14 August 2006, is GRANTED.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for the preparation and mailing of a new Notification of Acceptance and corrected Filing Receipt in accordance with this decision.


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